

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
WICK HOMES, INC.,

Appellant,

vs.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 602

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being an appeal to a notice of civil penalty of \$50.00 for allegedly causing or allowing an outdoor fire; having come on regularly for hearing before the Pollution Control Hearings Board on the 12th day of July, 1974, at Tacoma, Washington; and appellant, Wick Homes, Inc., appearing through its area manager, Robert E. Helm and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board members present at the hearing being W. A. Gissberg (presiding) and Chris Smith; and the Board having considered the sworn testimony, exhibits, records and files herein and

1 having entered on the 2nd day of August, 1974, its proposed Findings of  
2 Fact, Conclusions of Law and Order, and the Board having served said  
3 proposed Findings, Conclusions and Order upon all parties herein by certifi-  
4 mail, return receipt requested and twenty days having elapsed from said  
5 service; and

6 The Board having received no exceptions to said proposed Findings,  
7 Conclusions and Order; and the Board being fully advised in the premises;  
8 now therefore,

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
10 Findings of Fact, Conclusions of Law and Order, dated the 2nd day of  
11 August, 1974, and incorporated by this reference herein and attached  
12 hereto as Exhibit A, are adopted and hereby entered as the Board's  
13 Final Findings of Fact, Conclusions of Law and Order herein.

14 DATED this 29<sup>th</sup> day of August, 1974.

15 POLLUTION CONTROL HEARINGS BOARD

16  
17 W. A. GISSBERG  
18 W. A. GISSBERG, Member

19 Chris Smith  
20 CHRIS SMITH, Member

21  
22  
23  
24  
25 FINAL FINDINGS OF FACT,  
26 CONCLUSIONS OF LAW  
27 AND ORDER

CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 29<sup>th</sup> day of August 1974, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. Robert E. Helm, Area Manager  
Wick Homes, Inc.  
P. O. Box 1237  
Silverdale, Washington 98383

Mr. Keith D. McGoffin  
Burkey, Marsico, Roval, McGoffin,  
Turner and Mason  
818 South Yakima Avenue  
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency  
410 West Harrison Street  
Seattle, Washington 98119

  
LARENE BARLIN  
POLLUTION CONTROL HEARINGS BOARD

FINAL  
FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
WICK HOMES, INC.,

Appellant,

vs.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB NO. 602

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

A formal hearing on the appeal of Wick Homes, Inc. (appellant) to a notice of civil penalty of \$50.00 for allegedly causing or allowing an outdoor fire came on before W. A. Gissberg (presiding) and Chris Smith, on July 12, 1974, in Tacoma, Washington.

Appellant appeared by and through its area manager, Robert E. Helm; respondent by its attorney, Keith D. McGoffin.

Having heard the testimony and being fully advised, the Board makes and enters the following

EXHIBIT A

FINDINGS OF FACT

I.

On April 15, 1974, one of appellant's employees, in the course and scope of his employment, while engaged in home building construction, ignited a fire composed of lumber scraps on Lot 8 of Conifer Park, Kitsap County, Washington. No permit had been issued for the fire.

II.

The fire and black smoke therefrom, observed by an inspector on respondent's staff, caused respondent to serve on appellant Notice of Violation No. 7553, citing Section 9.02 of respondent's Regulation I, and Notice of Civil Penalty No. 1556, in the sum of \$50.00, which is the subject of this appeal.

III.

Appellant's area manager and some other building constructors apparently are of the erroneous belief that a clean lumber scrap fire can lawfully be burned without obtaining a permit to do so. On June 12, 1974, after the date of the fire, which is the subject matter of this appeal, appellant obtained a burning permit from the Department of Natural Resources. That permit authorized appellant to burn a brush pile and clean lumber associated with a "land clean-up". Such event has fortified appellant's contention that the fire of April 15, 1974 was not unlawful.

IV.

Section 9.02 of respondent's Regulation I makes it unlawful for any person to cause or allow any outdoor fire as heretofore described.

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

V.

That any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

I.

Appellant violated Section 9.02 of respondent's Regulation I.

II.

Appellant's area manager, in good faith, believed that such a fire did not require a permit and was otherwise lawful. Appellant has had no previous incidents of violating respondent's regulations. The civil penalty of \$50.00 under these circumstances should be suspended.

III.

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

ORDER

The civil penalty in the amount of \$50.00 is suspended on condition that appellant not violate respondent's regulations for a period of one year from the date this Order becomes final.

DONE at Lacey, Washington, this 2<sup>nd</sup> day of April, 1974.

POLLUTION CONTROL HEARINGS BOARD

W. A. GISSBERG, Presiding Officer

  
CHRIS SMITH, Member

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER